

CENTRAL CALIFORNIA WOMEN'S FACILITY

23370 Road 22
Chowchilla, CA 93610
(559) 665-5531

**NOTICE OF ADVERSE ACTION**

Israel Trevino
Correctional Officer
Central California Women's Facility
Chowchilla, CA 93610

Correctional Officer Trevino:

You are hereby notified that, pursuant to Government Code, Section 19574, adverse action is being taken against you as follows:

I.**NATURE OF THE ACTION**

You are hereby dismissed from your State civil service position as a Correctional Officer with the California Department of Corrections and Rehabilitation (CDCR), California Central Women's Facility (CCWF).

II.**EFFECTIVE DATE**

The dismissal shall be effective at the close of business on April 10, 2018.

III.**STATEMENT OF CAUSES**

This adverse action is being taken against you for the causes set forth in the following subsections of Government Code section 19572:

[REDACTED]

(m) Discourteous treatment of the public or other employees:

[REDACTED]

This adverse action is also founded upon:

a. California Code of Regulations (CCR), section 3270, General Policy;

- b. CCR, Title 15, section 3271, Responsibility of Employees;
- c. CCR, Title 15, section 3291, Employee Law Enforcement and Peace Officer Personnel;
- d. CCR, Title 15, section 3391, Employee Conduct;
- e. CCR, Title 15, section 3400, Familiarity;
- f. CCR, Title 15, section 3401.5, Employee Sexual Misconduct;
- g. CCR, Title 15, section 3401.6, Staff Sexual Harassment;
- h. CCR, Title 15, section 3413, Incompatible Activity;
- i. California Department of Corrections and Rehabilitation (CDCR) Operations Manual (DOM), section 31010.1, Policy;
- j. DOM, section 31010.2, Purpose;
- k. DOM, section 31010.3, Definitions of Discrimination Bias;
- l. DOM, section 31010.3.1, Definitions of Other Terms;
- m. DOM, section 31010.4, Complainant's Rights;
- n. DOM, section 31010.5, Conduct Violations;
- o. DOM section, 31010.6, Sexual Harassment Violations;
- p. DOM, section 3101.7, Responsibilities;
- q. DOM, section 33030.3.1, Code of Conduct;
- r. DOM, section 33030.3.2, General Qualifications; and
- s. DOM, section 33030.3.3, Law Enforcement Code of Ethics.

IV.

STATEMENT OF FACTS

On or about September 2, 2002, you became, and at all times mentioned herein have been, a civil service employee of the State of California. At all times relevant to this action, you held and occupied the position of Correctional Officer at Central California Women's Facility (CCWF). During your tenure with CDCR, you have received ongoing training on various work-related topics including, but not limited to:

- Prison Rape Elimination Act (PREA)
- Body, Cell, Area, & Grid Search
- Equal Employment Opportunity/ Sexual Harassment (EEO/SH) Prevention
- Inmate/Staff Relations
- Working Effective with Female Offenders

On or about June 12, 2013, you completed and signed a Personnel Identification Card form (CDC 894-A (Rev. 4/96), upon which the following verbiage appears, in pertinent part:

It is your duty to read and abide by the Director's rules while working at the Department's facilities.

On or about December 20, 2004, you acknowledged, in writing, receipt of a document addressed to all new employees of CCWF bearing the title "Employee Orientation Material." Your signature appears immediately below the following verbiage:

I hereby acknowledge receipt of an Orientation Packet and will receive one copy of the Director's Rules and Regulations during In-Service Training Orientation. I understand that it is my duty to familiarize myself with all the information, rules, and regulations contained therein.

On or about December 20, 2004, you acknowledged, in writing, receipt of a document bearing the title "Title 15." Your signature appears immediately below the following verbiage:

I have been provided a copy of the Director's Rules & Regulations and agree to abide by its provisions. My signature below indicates receipt and acknowledgment.

At all times relevant to this action, you had received training on, were familiar with and expected to comply fully with CCR, Title 15, section 3401.5, Staff Sexual Misconduct, which provides, in pertinent part:

(a) For the purposes of this section, staff sexual misconduct means any sexual behavior by a departmental employee, volunteer, agent or individual working on behalf of the Department of Corrections and Rehabilitation, which involves or is directed toward an inmate or parolee. The legal concept of "consent" does not exist between departmental staff and inmates/parolees; any sexual behavior between them constitutes sexual misconduct and shall subject the employee to disciplinary action and/or to prosecution under the law. Sexual misconduct includes, but is not limited to:

...

(3) Engaging in sexual act(s) or contact, including:

...

- (E) Rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with knowledge of another, for the purpose of sexual arousal, gratification, or manipulation; or
 - (F) Invasion of privacy, beyond that reasonably necessary to maintain safety and security; or disrespectful, unduly familiar, or sexually threatening comments directed to, or within the hearing of, an inmate/parolee.
- ...

- (5) Voyeurism by a staff person including volunteers or independent contractors. Voyeurism is defined as an invasion of privacy of an offender by staff for reasons unrelated to official duties. . . .

At all times relevant to this action, you had also received training on, were familiar with and expected to comply with CCR, Title 15, section 3401.6, Staff Sexual Harassment, which provides, in pertinent part:

- (a) Staff Sexual Harassment. For the purpose of the Prison Rape Elimination Act policy, staff sexual harassment means repeated verbal comments or gestures of a sexual nature to an offender by a staff member, volunteer, or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- (b) Penalties. All allegations of staff sexual harassment shall be subject to review and investigation, and when appropriate, to disciplinary action and/or criminal prosecution.

Further, at all times relevant to this action, you had received training on, were familiar with and expected to comply fully with CDCR's Equal Employment Opportunity (EEO) Policy (revised August 2015). CDCR's EEO Policy is set forth in DOM, commencing at section 31010.1, Policy, which provides, in pertinent part:

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing Equal Employment Opportunity (EEO) and creating a work environment in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of CDCR to provide a workplace free from discrimination, harassment, and retaliation for all applicants, employees, contractors, unpaid interns and volunteers. The CDCR EEO policy is a zero-tolerance policy, which applies to all aspects of employment within CDCR including recruitment, hiring, promotion, transfer, training, corrective adverse action, and other terms, conditions, and benefits of employment. Zero tolerance means that violations of this policy will

not be tolerated. When policy violations are found to have occurred, appropriate corrective action and/or adverse action, up to and including dismissal, depending on the severity of the violation, will be taken. **All employees are prohibited from discriminating against or harassing anyone on the basis of their protected status.** The bases for filing a complaint are:

...

- Sex/Gender (including sexual harassment, pregnancy, gender identity, and gender expression)

...

All employees are prohibited from retaliating against any person because the person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, or assisted in any proceeding related to this policy.

All employees are prohibited from aiding or coercing the doing of any acts forbidden under this policy.

All employees are prohibited from engaging in behavior that rises to the level of discrimination, harassment, or retaliation in violation of:

- Title VII of the Civil Rights Act of 1964 (including amendments)
- California Fair Employment and Housing Act (FEHA) of 1959 (including amendments)
- California Code of Regulations (Titles 2 and 15)
- Departmental EEO/Sexual Harassment policies and procedures
- Other California and federal EEO laws

This policy applies to conduct that occurs in any location operated by CDCR or is considered a workplace by CDCR, as well as any location that can reasonably be regarded as an extension of the workplace, such as an off-site business or social function, or other non-CDCR facility where CDCR business is being conducted. ...
[Emphasis added.]

DOM section 31010.2, Purpose, provides:

The purpose of this policy is to prevent misconduct, define the roles and responsibilities of CDCR management and employees relative to the EEO policy, and to identify the discrimination complaint process.

DOM section 31010.3, Definitions of Discrimination Basis, provides, in pertinent part:

Sex

Sex includes, but is not limited to, a person's gender. Gender includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Gender identity refers to a person's identification as male, female, a gender different from the person's sex at birth, or transgender. Sex also includes, but is not limited to pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; and breastfeeding or medical conditions related to breastfeeding.

DOM section 31010.3.1, Definitions of Other Terms, sets forth certain definitions under the EEO policy in pertinent part:

Complainant

Any individual or group of individuals who allege discrimination in violation of a State or federal EEO law or regulation or departmental policy.

EEO

The legal right of all individuals to be afforded full and equal consideration for employment, retention, and advancement on the basis of merit.

DOM section 31010.4, Complainant's Rights, provides in pertinent part:

Every person covered by this policy has the following rights:

1. The right to a discrimination-free work environment. . . .

DOM section 31010.5, Conduct Violations, provides, in pertinent part:

The type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Making employment decisions on the basis of an individual's characteristics
...
- Verbal and physical conduct that a reasonable person would find threatening, intimidating, or humiliating.
...

- Discriminating against any employee in violation of this policy so as to create a hostile work environment.

DOM section 3101.7, Responsibilities, imposes specific duties and obligations upon all CDCR employees, but particularly those who agree to serve in specific capacities:

Employees

- All CDCR employees shall: Adhere to CDCR's EEO policy and procedures, applicable state and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO policy.
- Report any EEO policy violations to any supervisor or manager.
- Cooperate with any investigation conducted by OIA.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or adverse action, up to and including dismissal from the Department, regardless of rank, level, or classification.

At all times relevant to this action, you were assigned to serve as the HCA A4 Escort #3 MH, Post Order Number 214004. The Post Order (Revised January 2017) describes your duties and responsibilities in pertinent part, as follows:

These post orders shall be used a guideline and are subject to change based on operational need. Officers are expected to incorporate discretion and common sense with professional competence, so that the intent of these orders will be effectively fulfilled. When conflicts or questions arise to which the responses or answer are not clear immediately contact the Sergeant or Lieutenant assigned to the area for clarification and guidance.

All Peace Officers have the responsibility to take appropriate action during an emergency (including physical restraint) and to work assignments as necessitated. You are required to sign and date the California Department of Corrections and Rehabilitation (CDCR) Form 1860, Post Order Acknowledgement, to verify your understanding of the duties and responsibilities of this post. You shall sign the CDCR Form 1860 when you have been assigned to this post and no later than the end of each month thereafter, when the post order has been revised, or upon return from an extended absence.

GENERAL DUTIES AND RESPONSIBILITIES

...

Report to your assigned Office (i.e. Facility Sergeant's Office/Watch Office) and sign-in on the Fair Labor Standards Act (FLSA) roster at the beginning and conclusion of your shift. Receive instructions and information from the HCA Sergeant or HCA Lieutenant.

...

You will perform all other assigned duties as deemed necessary by the HCA Sergeant or HCA Lieutenant assigned to your area of responsibility. Additionally, you shall request authorization to leave your assigned work area from your immediate supervisor.

...

SPECIAL INSTRUCTIONS:

1. POLICIES

You will have thorough knowledge of Departmental/Institutional Policies and Procedures. Confidential Institutional Department Operations Manual (DOM Supplements, Policies, and Procedures can be accessed in the Warden's Suite, the Custody Captain's Office, and in Central Control . . .

...

SPECIAL DIRECTIVES:

Your area of responsibility is Building 504 (alternative) housing for inmates participating in the Mental Health Delivery System (MHSDS) at the Correctional Case Management System (CCCMS) Level of Care (LOC), requiring Short Term Restricted Housing (STRH). Your primary responsibility as a HCA A4 Escort Officer #4 MH is to escort inmate-patients housed in STRH to their medical, mental health (to include confidential structured group/individual therapy and educational/recreational activities) and dental appointments. In addition, you will conduct escorts to other locations as deemed necessary. You are under the direct supervision of the HCA CHS

COMPLEX SGT. You will pick up your equipment in Building 504 Control Booth.

You will work collaboratively with the other respective HCA A=4 Escort Officers to escort inmate-patients to all pre-scheduled and add-on appointments. Inmate-patient appointments are scheduled, but not limited to, Building 504 (in-house), Building 700, Building 703, Building 705, Building 805.

...

When you are not conducting escorts to medical, mental health and dental appointments or there is significant time before the next escort, you will assist in the daily, normal operations of Building 504 as long as it does not negatively affect the primary Health Care Access (providing health care to inmate-patients in a timely manner).

...

As a Correctional Officer, your overall primary responsibility is maintaining safety and security of institution, staff, and inmates in accordance with Departmental/Institutional Policies and Procedures.

You will follow proper restraint application procedures for inmate-patients that require restraints. During escorts of inmate-patients housed in Short Term Restricted Housing and Condemned Row assure the proper use of force options are drawn and ready to utilize. . . .

A. YOUR INAPPROPRIATE INTERACTIONS WITH INMATE [REDACTED]

[REDACTED] (Inmate [REDACTED], was within CDCR's custody and jurisdiction, and housed in the [REDACTED] which is located in Housing Unit [REDACTED] at CCWF during the month of August 2017. On or about August 23, 2017, Inmate [REDACTED] was in her cell, Room [REDACTED]. You went to Inmate [REDACTED] cell to escort her to her Enhanced Outpatient Program (EOP) group therapy. You stood outside of Inmate [REDACTED] cell. Inmate [REDACTED] placed her back to you while she was inside the cell and walked backwards to the food port of the cell so that you could place waist restraints upon her. As you did so, you used both of your hands to grope and fondle her buttocks. Inmate [REDACTED] asked you, "Hey, what the fuck are you doing?" or words to that effect. You replied, "You have a big butt."

On at least one (1) occasion during the month of August 2017, you made at least one (1) comment of a sexual nature to Inmate [REDACTED]. Specifically, you made reference to

her buttocks, saying, "That's not a big ass, that's a huge ass," or words to that effect. You also commented to inmate [REDACTED] that you wanted to "hook up" with her (meaning have a romantic or sexual encounter) when she paroled, or words to that effect. Thereafter, Inmate [REDACTED] called you a "pervert" each time you came to her cell door. During the month of August 2017, after you groped and fondled Inmate [REDACTED] you returned to Inmate [REDACTED] cell and smiled at her on at least one occasion.

On or about August 23, 2017, at or about 1030 hours (10:30 a.m.), Inmate [REDACTED] reported your conduct to K. Sillacci, Clinical Social Worker, during Inmate [REDACTED] group therapy session. Specifically, she reported that you "grabbed [her] ass," or words to that effect.

On or about August 25, 2017, Inmate [REDACTED] reported your conduct to Carmen Gray, Clinical Social Worker (Ms. Gray), who was assigned as Inmate [REDACTED] social worker. Ms. Gray went to [REDACTED] to speak to Inmate [REDACTED] because she discovered that a Suicide Risk Assessment had been completed concerning Inmate [REDACTED] after you groped and fondled Inmate [REDACTED]. Inmate [REDACTED] was so traumatized by your conduct that, although she did not have a cellmate at the time of the incident, she requested to have a cellmate because she did not want to be alone with you without a witness.

B. YOUR INAPPROPRIATE INTERACTIONS WITH INMATE [REDACTED]

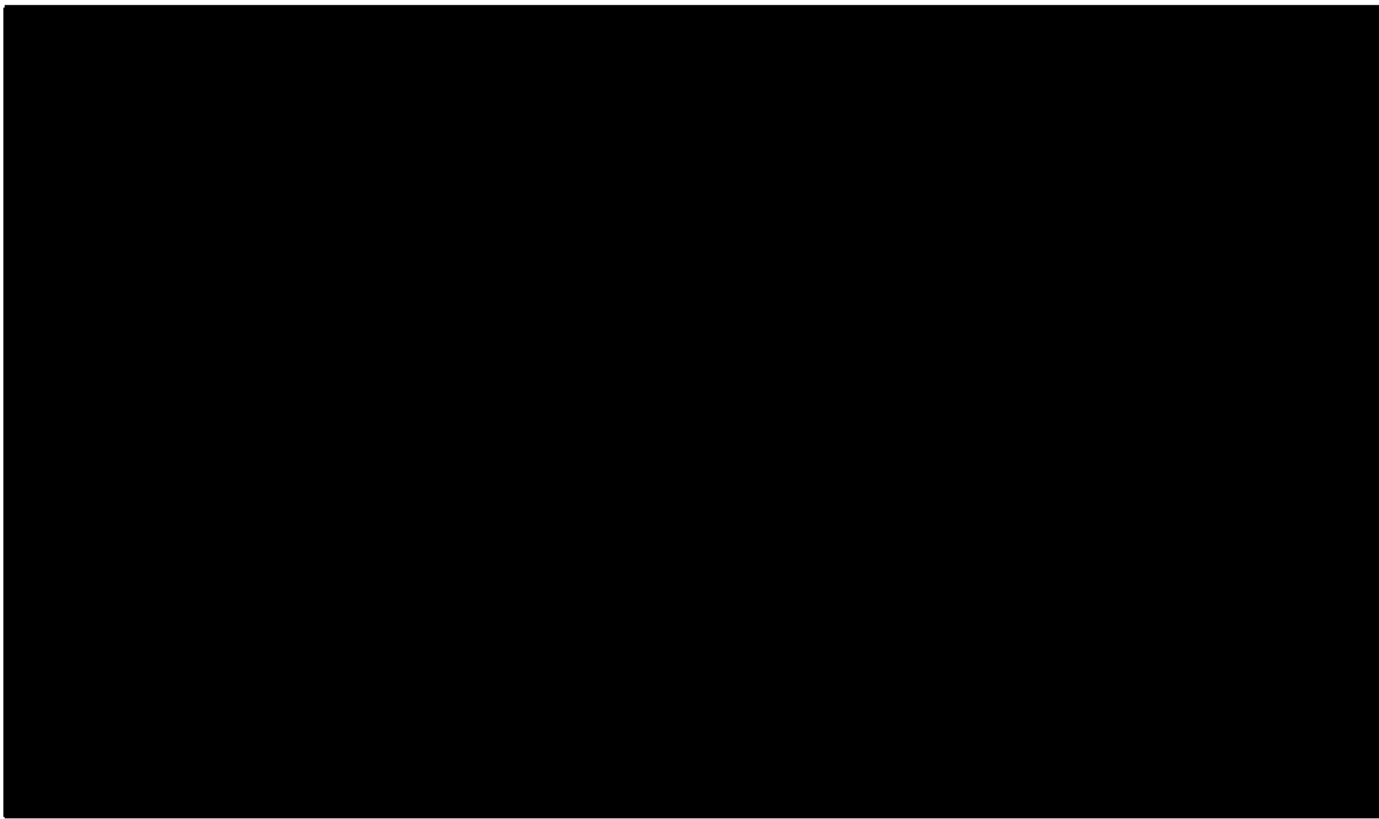
[REDACTED] CDCR [REDACTED] (Inmate [REDACTED]) was within CDCR's custody and jurisdiction, and housed in [REDACTED] at CCWF between in or about February 2017 and in or about August 2017. On at least one occasion during that time period, you escorted Inmate [REDACTED] to and from her programming groups and activities, showers, and cell. During those escorts, on at least one occasion, you made comments of a sexual nature to her, including, but not limited to, asking her to expose her breasts and vagina for you, or words to that effect. During those encounters, on at least one (1) occasion, you told Inmate [REDACTED] "Come on, show me something," or words to that effect. You also told Inmate [REDACTED] not to be embarrassed by your overtures, or words to that effect. On at least one (1) occasion, you told Inmate [REDACTED] that she had "child-bearing hips" and a "wide load," or words to that effect, in reference to her posterior.

At all times relevant to this action, you were aware that Inmate [REDACTED] is the mother of seven (7) children. On at least one (1) occasion, you told Inmate [REDACTED] "I can't get too close to you, I might get you pregnant," or words to that effect. At all times relevant to this action, you were also aware that Inmate [REDACTED] was having or had marital difficulties with her husband. On one occasion, in reference to her husband, you told Inmate [REDACTED] "He's not doing his job, I'll give it to you better," or words to that effect. On at least one (1) occasion while escorting Inmate [REDACTED] you told her that you wanted to "hook up" with her when she paroled, or words to that effect, meaning

you expressed to her an interest in having a sexual or romantic encounter with her upon her release from CDCR custody.

On at least one (1) occasion between in or about May 2017 and in or about August 2017, you touched her in an inappropriate and sexual manner. Specifically, on at least one occasion, you secured waist chains around her body and, as you did so, you deliberately, needlessly, and for your own gratification, grabbed, touched or squeezed her buttocks over Inmate [REDACTED] clothing. On at least one occasion, you brushed up against Inmate [REDACTED] buttocks with your body. On at least one occasion you attempted to lift up Inmate [REDACTED] shirt and attempted to place your hand down the side of her pants. On one (1) occasion in or about May 2017, in conjunction with your escort of Inmate [REDACTED] to the shower, you asked her to leave the covering off the shower because you were going to be downstairs and you wanted to see her in the shower, or words to that effect.

On at least one occasion while you escorted Inmate [REDACTED] to her programming group, you told her that you were not going to be able to escort her any longer because other inmates and staff were talking about the fact that you were frequently escorting Inmate [REDACTED] or words to that effect. You added that other inmates were getting "jealous," or words to that effect. Inmate [REDACTED] did not file an appeal of grievance against you because your conduct because she was afraid that she would be retaliated against.



E. SUMMARY

As an employee of CDCR, you are expected to perform your duties efficiently and professionally. Your duties and responsibilities include the requirement that, as a peace officer, your conduct be ethical and above reproach at all times. You are held to the highest standards, and it is incumbent upon you to use good judgment, make sound decisions, maintain an unassailable level of conduct, consistent with the standards by which a peace officer is expected to comport him/herself, and at all times behave in a manner designed to ensure the safe and orderly operation of CDCR's institutions and facilities. Your duties and responsibilities also include the requirement that your conduct not bring discredit upon your department.

Your conduct, as described with particularity hereinabove, fell far below the standards expected of a Correctional Officer. Your behavior concerning and directed to the inmates discussed above was because of those inmates' sex/gender, for your sexual gratification, and constituted an inexcusable neglect of your duty to comply fully with CDCR's rules, regulations, and policies governing your interactions with inmates and outlining CDCR's expectations regarding appropriate workplace conduct. Your conduct was discourteous, offensive, repugnant, and unwelcome, and undermined CDCR's duty to ensure that all inmates are provided an environment in which they are treated with respect and dignity, free from inappropriate commentary, including that of a sexual nature, and touching. Your behavior was unprofessional and demonstrated an appallingly cavalier attitude toward your own professional standing and responsibilities, as well as a callous and appalling disrespect for the female inmates within CDCR's custody and jurisdiction and disregard for their emotional, mental and physical well-being. Your behavior impeded CDCR's ability to carry out its mission of ensuring the safety of persons committed to CDCR's custody and afford those individuals every reasonable opportunity and encouragement to participate in rehabilitative activities. You needlessly subjected CDCR to potential liability for your misconduct. Moreover, your behavior disrupted the orderly operations of CCWF and jeopardized the safety and security of the institution and all persons present there.

Your conduct has brought discredit upon you, your hiring authority, and CDCR, thereby impeding your ability to perform your duties in a credible, efficient, and effective manner. Such conduct is not acceptable and will not be tolerated from a Correctional Officer employed by CDCR.

V. VIOLATIONS

Your actions, set forth and described above, constitute violations of, but are not necessarily limited to Government Code section 19572, subdivisions [REDACTED] (m), [REDACTED], and [REDACTED].

Your actions, set forth and described above, also constitute violations of the following:

- a. CCR, Title 15, section 3270, General Policy, which provides:

The primary objectives of the correctional institutions are to protect the public by safely keeping persons committed to the custody of the Director of Corrections, and to afford such persons with every reasonable opportunity and encouragement to participate in rehabilitative activities. Consistent effort will be made to insure the security of the institution and the effectiveness of the treatment programs within the framework of security and safety. Each employee must be trained to understand how physical facilities, degree of custody classification, personnel, and operative procedures affect the maintenance of inmate custody and security. The requirement of custodial security and of staff, inmate and public safety must take precedence over all other considerations in the operation of all the programs and activities of the institutions of the department.

- b. CCR, Title 15, Section 3271, Responsibility of Employees, which provides:

Every employee, regardless of his or her assignment, is responsible for the safe custody of the inmates confined in the institutions of the department.

- c. CCR, Title 15, section 3291, Employee Law Enforcement and Peace Officer Personnel, which provides, in pertinent part:

(a) Law Enforcement Responsibility. All employees of the Department shall be responsible to enforce laws, regulations and procedures which govern the actions and activities of inmates, parolees and of person who come into contact with inmates and parolees. . . .

(b) Peace Officer Personnel. Peace officers are departmental employees holding peace officer positions as defined by law or as designated by the Secretary of the California Department of Corrections and Rehabilitation (CDCR) . . .

d. CCR, Title 15, section 3391, Employee Conduct, which provides, in pertinent part:

Employees shall be alert, courteous, and professional in their dealings with inmates, parolees, fellow employees, visitors and members of the public. Inmates and parolees shall be addressed by their proper names, and never by derogatory or slang reference. Prison numbers shall be used only with names to summon inmates via public address systems. Employees shall not use indecent, abusive, profane, or otherwise improper language while on duty. Irresponsible or unethical conduct or conduct reflecting discredit on themselves or the department, either on or off duty, shall be avoided by all employees.

e. CCR, Title 15, section 3400, Familiarity, which provides:

Employees must not engage in undue familiarity with inmates, parolees, or the family and friends of inmates or parolees. When- ever there is reason for an employee to have personal contact or discussions with an inmate or parolee or the family and friends of inmates and parolees, the employee must maintain a helpful but professional attitude and demeanor. Employees must not discuss their personal affairs with any inmate or parolee.

f. CCR, Title 15, section 3401.5, Employee Sexual Misconduct which provides:

(a) For the purposes of this section, staff sexual misconduct means any sexual behavior by a departmental employee, volunteer, agent or individual working on behalf of the Department of Corrections and Rehabilitation, which involves or is directed toward an inmate or parolee. The legal concept of "consent" does not exist be- tween departmental staff and inmates/parolees; any sexual behavior between them constitutes

sexual misconduct and shall subject the employee to disciplinary action and/or to prosecution under the law. Sexual misconduct includes, but is not limited to:

...

(3) Engaging in sexual act(s) or contact, including:

...

(E) Rubbing or touching of the breasts or sexual organs of another or of oneself, in the presence of and with knowledge of another, for the purpose of sexual arousal, gratification, or manipulation; or

(F) Invasion of privacy, beyond that reasonably necessary to maintain safety and security; or disrespectful, unduly familiar, or sexually threatening comments directed to, or within the hearing of, an inmate/parolee.

...

(5) Voyeurism by a staff person including volunteers or independent contractors. Voyeurism is defined as an invasion of privacy of an offender by staff for reasons unrelated to official duties.

(b) Penalties. All allegations of staff sexual misconduct shall be subject to investigation, which may lead to disciplinary action and/ or criminal prosecution.

g. CCR, Title 15, section 3401.6, Staff Sexual Harassment, which provides:

(a) Staff Sexual Harassment. For the purpose of the Prison Rape Elimination Act policy, staff sexual harassment means repeated verbal comments or gestures of a sexual nature to an offender by a staff member, volunteer, or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

(b) Penalties. All allegations of staff sexual harassment shall be subject to review and investigation, and when appropriate, to disciplinary action and/or criminal prosecution.

h. CCR, Title 15, section 3413, Incompatible Activity which provides, in pertinent part:

(a) Employees of the department shall not engage in any other employment or activity inconsistent or incompatible with employment by the department. Conduct deemed to fall in such categories includes, but is not limited to the following:

...

(2) Employment or participation in any activity of an illegal nature.

(c) Violation of these provisions may result in disciplinary actions up to and including termination of employment with the department or civil action. Criminal prosecution may result from conduct, which violates Penal Code section 502.

i. DOM, section 31010.1, Policy, which provides, in pertinent part:

The California Department of Corrections and Rehabilitation (CDCR) is committed to providing Equal Employment Opportunity (EEO) and creating a work environment in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of CDCR to provide a workplace free from discrimination, harassment, and retaliation for all applicants, employees, contractors, unpaid interns and volunteers. The CDCR EEO policy is a zero-tolerance policy, which applies to all aspects of employment within CDCR including recruitment, hiring, promotion, transfer, training, corrective adverse action, and other terms, conditions, and benefits of employment. Zero tolerance means that violations of this policy will not be tolerated. When policy violations are found to have occurred, appropriate corrective action and/or adverse action, up to and including dismissal, depending on the severity of the violation, will be taken. All employees are prohibited from discriminating against or harassing anyone on the basis of their protected status. The bases for filing a complaint are:

...

- Sex/Gender (including sexual harassment, pregnancy, gender identity, and gender expression)

...

All employees are prohibited from retaliating against any person because the person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, or assisted in any proceeding related to this policy.

All employees are prohibited from aiding or coercing the doing of any acts forbidden under this policy.

All employees are prohibited from engaging in behavior that rises to the level of discrimination, harassment, or retaliation in violation of:

- Title VII of the Civil Rights Act of 1964 (including amendments)
- California Fair Employment and Housing Act (FEHA) of 1959 (including amendments)
- California Code of Regulations (Titles 2 and 15)
- Departmental EEO/Sexual Harassment policies and procedures
- Other California and federal EEO laws

This policy applies to conduct that occurs in any location operated by CDCR or is considered a workplace by CDCR, as well as any location that can reasonably be regarded as an extension of the workplace, such as an off-site business or social function, or other non-CDCR facility where CDCR business is being conducted. . . .

- j. DOM section 31010.2, Purpose, which provides:

The purpose of this policy is to prevent misconduct, define the roles and responsibilities of CDCR management and employees relative to the EEO policy, and to identify the discrimination complaint process.

- k. DOM section 31010.3, Definitions of Discrimination Basis, which provides, in pertinent part:

Sex

Sex includes, but is not limited to, a person's gender. Gender includes a person's gender identity and gender expression. Gender expression means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth. Gender identity refers to a person's identification as male, female, a gender different from the person's sex at birth, or transgender. Sex also includes, but is not limited to pregnancy or medical conditions related to pregnancy; childbirth or medical conditions related to childbirth; and breastfeeding or medical conditions related to breastfeeding.

- l. DOM section 31010.3.1, Definitions of Other Terms, which provides, in pertinent part:

Complainant

Any individual or group of individuals who allege discrimination in violation of a State or federal EEO law or regulation or departmental policy.

EEO

The legal right of all individuals to be afforded full and equal consideration for employment, retention, and advancement on the basis of merit

- m. DOM section 31010.4, Complainant's Rights, which provides in pertinent part:

Every person covered by this policy has the following rights:

1. The right to a discrimination-free work environment . . .

n. DOM section 31010.5, Conduct Violations, which provides, in pertinent part:

The type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Using discriminatory terms or telling discriminatory jokes that are based on an individual's protected status.
- Bullying or abusive conduct, including repeated infliction of verbal abuse and use of derogatory remarks, insults, and epithets.
- Verbal and physical conduct that a reasonable person would find threatening, intimidating, or humiliating.

- Discriminating against any employee in violation of this policy so as to create a hostile work environment.

- Engaging in any unwanted physical contact or leering.

o. DOM section 31010.6, Sexual Harassment Violations, which provides:

Sexual harassment is defined under State and federal laws and by this policy as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that interferes with work performance by creating an intimidating, hostile, or offensive work environment. Such conduct constitutes sexual harassment in violation of this policy when:

- (1) Submission to the conduct or communication is made either explicitly or implicitly a term or condition of employment.
- (2) Submission to or rejection of the conduct or communication is used as a basis for employment or service decisions affecting the individual.
- (3) Such conduct or communication has the potential to negatively affect an individual's work performance and/or create an intimidating, hostile, or offensive work environment.

The type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of CDCR's EEO policy includes, but is not limited to:

- Demanding sexual favors in exchange for employment benefits, or as a term or condition of employment, whether explicitly or implicitly.
- Engaging in any unwanted physical contact, including touching, leering, making sexual gestures, impeding or blocking movements, pinching, grabbing, patting, intentionally brushing up against another individual in a sexual manner, rape, or sexual assault.
- Engaging in retaliation after a negative response to sexual advances.
- Using sexually derogatory terms or telling sexual jokes and/or stories.
- Displaying objects, cartoons, pictures, or posters of a derogatory or sexual nature.
- Posting, sending, or uploading/downloading sexual or demeaning materials in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.
- Following or stalking an employee.
- Making harassing telephone calls of a sexual nature to a coworker, or sending sexually harassing correspondence to an individual by any means including, but not limited to, the use of public or private mail, interoffice mail, facsimile, electronic mail, or text messaging.

p. DOM section 3101.7, Responsibilities, which provides, in pertinent part:

...

Employees

All CDCR employees shall:

- Adhere to CDCR's EEO policy and procedures, applicable state and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO policy.
- Report any EEO policy violations to any supervisor or manager.
- Cooperate with any investigation conducted by OIA.
- Attend mandated EEO/Sexual Harassment Prevention training.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or adverse action, up to and including dismissal from the Department, regardless of rank, level, or classification.

q. DOM, section 33030.3.1, Code of Conduct, which provides:

As employees and appointees of the Department, we are expected to perform our duties, at all times, as follows:

- Demonstrate professionalism, honesty, and integrity;
- Accept responsibility for our actions and their consequences;
- Appreciate differences in people, their ideas, and opinions;
- Treat fellow employees, inmates, wards, parolees, victims, their families, and the public with dignity and respect;
- Respect the rights of others and treat them fairly regardless of race, color, national origin, ancestry, gender, religion, marital status, age, disability, medical condition, pregnancy, sexual orientation, veteran status, or political affiliation;
- Comply with all applicable laws and regulations;
- Report misconduct or any unethical or illegal activity and cooperate fully with any investigation.

r. DOM, section 33030.3.2, General Qualifications, which provides:

All employees are subject to the requirements as specified in the California Code of Regulations (CCR), Title 2, Section 172, General Qualifications, which states, in pertinent part, the following:

All candidates for, appointees to, and employees in the state civil service shall possess the general qualifications of integrity, honesty, sobriety, dependability, industry, thoroughness, accuracy, good judgment, initiative, resourcefulness, courtesy, ability to work cooperatively with others, willingness and ability to assume the responsibilities and to conform to the conditions of work characteristic of the employment, and a state of health, consistent with the ability to perform the assigned duties of the class.

s. DOM, section 33030.3.3, Law Enforcement Code of Ethics, which provides:

Peace officers employed by the Department are held to a higher standard of conduct on and off duty, as specified in the Law

Enforcement Code of Ethics and the peace officer oath. The Law Enforcement Code of Ethics is as follows:

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all people to liberty, equality and justice.

I will keep my public and private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my Department. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life. I will be exemplary in obeying the law and the regulations of my department.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities, organizational associations or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

Confidential information received in my official capacity shall remain undisclosed unless disclosure is necessary in the performance of my duty. I will never engage in acts of corruption, bribery, insubordination or the obstruction of justice, nor will I condone such acts by other peace officers. I will immediately report acts of misconduct by staff of my department and cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

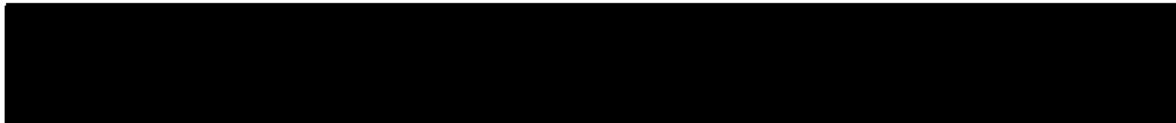
I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am serving as a law enforcement officer. I will constantly strive to achieve these objectives and ideals,

dedicating myself before all present to my chosen profession . . . law enforcement.

VI.

PRIOR CORRECTIVE ACTION

The instance of prior corrective action cited herein does not serve as the basis for the instant adverse action. Rather, it is enumerated for the purpose of demonstrating your prior knowledge of CDCR's policies, procedures, rules, and regulations, as well the date(s) upon which you were warned concerning your obligation to comply fully therewith.



VII.

APPEAL RIGHTS

1. Right to Respond to Appointing Power

Pursuant to State Personnel Board Rule 52.6 (*Skelly* Rule), you are entitled to at least five (5) working days within which to respond to this proposed notice. You may respond orally or in writing prior to the effective date. If you wish to respond you may do so to:

Name:	R. Fisher, Jr., Warden c/o Anthony Bacci Employee Relations Officer
Address:	Central California Women's Facility P.O. Box 1501 Chowchilla, Ca. 93610-1501
Telephone	(559) 665-6013

You are entitled to a reasonable amount of State time to prepare your response to the charges. You are not entitled to a formal hearing with examination of witnesses at this stage of the proceedings. However, another may represent you in presenting your response. The appointing power may sustain, amend, modify, or revoke the proposed adverse action in whole or in part.

2. Right to Appeal to the State Personnel Board.

Regardless of whether you respond to these charges to the appointing power, you are advised that you have the right to file a written answer to this proposed notice with the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814, not later than thirty (30) calendar days after the effective date of this proposed action. An answer shall be deemed to be a request for hearing or investigation as provided in Section 19575 of the Government Code. If you answer as provided, the Board or its authorized representative shall, within a reasonable time, hold a hearing and shall notify the parties of the time and place thereof. If you fail to answer within the time specified, the adverse action taken by the appointing power shall become final.

You are responsible for notifying the State Personnel Board and your appointing power of any changes in your address that occur after the effective date of this adverse action.

3. Right to Inspect Documents.

Copies of any documents or other materials giving rise to this proposed adverse action are attached. This documentation is not being provided to the State Personnel Board in advance of any appeal hearing that may be scheduled.

VIII.

IMPORTANT NOTICE

You have been served with an action that may result in a lapse of benefit coverage (health, dental, and vision), and the nonissuance of other payments made by payroll deduction (e.g. credit union deductions for mortgage/car payments, 401K, life insurance, etc.). The impact this action will have is dependent on several factors and can only be determined by the personnel office staff who is responsible for your pay and benefits.

It is recommended that you contact your personnel office immediately to learn what impact (if any) this action will have on your payroll deductions (including benefit premiums) and what entitlement/options you have for continuing those benefits/payments should you choose to do so.

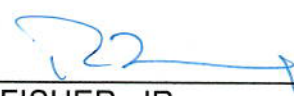
IX.

SEPARATE AND DISTINCT RIGHTS

Your Right to Respond to the Appointing Power prior to the effective date of this Action as stated above is separate and distinct from your Right of Appeal to the State Personnel Board as stated above. You may exercise both rights as long as you do so within the time limits provided.

Dated: _____

3.26-18



R. FISHER, JR.
Warden
Valley State Prison

Attachment: List and copies of supporting materials